

# Northland Constructors

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## of Duluth, LLC

October 20<sup>th</sup>, 2010

Serial Letter 4465.019

Mr. Brett Cahoon  
Kraus-Anderson Construction Co.  
3716 Oneota Street  
Duluth, MN 55807

**Certified Mail**  
**Return Receipt Requested**

Re: Duluth Int'l Airport, Passenger Terminal Building (Civil Site Work  
FAA AIP 3-27-0024-48-10, RS&H Job No 213.1882.091

Subject: Notice of Default

Dear Mr. Cahoon:

This letter is in response to your correspondence dated October 14<sup>th</sup>, 2010, stating that you believe we are in default of our contract. Northland Constructors of Duluth, LLC (NC) has stated our case in serial letters 4465.014-4465.016 and have attached the correspondence. There are two issues in regard to extra work:

1. Extra excavation (the excavation and fill below one foot of depth of footings elevations)
2. Lean-mix concrete

NC still believes the excavation beyond the bottom one foot of footings elevation is extra work. We have stated that we will keep track of all expenses related to this excavation and our intent to file a claim for this work if not paid as described in the project specification. NC has continued to complete this work on good faith effort to continue your project schedule.

NC has refused to place lean mix concrete because structural concrete is not in our scope of work. Our argument is also stated in attached letters. NC would like to restate, the mere mention of work in the contract documents does not make the work part of our work scope, there are multiple contracts working off the same contract documents. The scope of work needs to clearly identify what work is in our contract and lean-mix concrete is not defined in our scope.

Therefore, NC firmly believes we are not in default of our contract; we are progressing extra work that is inside our scope of work on good faith effort. NC still believes the lean-mix concrete is not in our scope of work.

Sincerely,



Nathaniel Fox  
Project Manager  
Northland Constructors of Duluth, LLC

Attachments: Northland's Serial Letters 4465-014, 4465-015, 4465-016

Cc: Brian Ryks, Duluth Airport Authority  
Brain Grefe, Duluth Airport Authority  
John Hippchen, Reynolds, Smith, and Hills, Inc.  
Thomas Chambers, Reynolds, Smith, and Hills, Inc.  
Craig Bursch, MJB Consulting Structural Engineers  
Joan Christensen, City of Duluth  
Craig Remick, Liberty Mutual Insurance Company

# **Northland Constructors**

## **of Duluth, LLC**

October 4<sup>th</sup>, 2010

Serial Letter 4465.016

Mr. Brett Cahoon  
Kraus-Anderson Construction Co.  
3716 Oneota Street  
Duluth, MN 55807

Re: Duluth Int'l Airport, Passenger Terminal Building (Civil Site Work  
FAA AIP 3-27-0024-48-10, RS&H Job No 213.1882.091

Subject: Notice of Intent to Claim, Over Excavation & Lean-mix Concrete

Dear Mr. Cahoon:

This letter is in response to letter from Kraus Anderson Construction (KA) dated 10/04/10, referring to Northland Constructors (NC) work scope and lean-mix concrete. In the interest of keeping the overall project on schedule NC had notified KA as soon as the extra work was brought to our attention. We presented detailed reasons why this is extra work in NC Serial Letters 4465.014 – 4465.015.

It is still our intention that the work being asked of NC is clearly extra work outside our original contract and scope of work. NC will proceed to accomplish the over excavation that is being determined by the geotechnical engineer. However, we fill the placement of the lean-mix concrete, is so far beyond our scope of work, we are requesting that the work be placed in your structural concrete scope of work.

NC will proceed to accomplish the over excavation at your direction to advance your construction schedule at KA's request. We will track our work for this claim on a separate cost phase or force account, in case unit prices cannot be agreed upon for this work. In addition to seeking additional compensation for the work, we will seek additional calendar days required to complete the work. Should the work be pushed into winter weather, we will seek compensation for weatherization, heat, re-mobilization, and any other unforeseen conditions that may arise from the delay.

Please contact me directly should you require additional information,

Sincerely,



Nathaniel Fox  
Project Manager  
Northland Constructors of Duluth, LLC

# **Northland Constructors**

## **of Duluth, LLC**

October 1st, 2010

Serial Letter 4465.015

Mr. Brett Cahoon  
Kraus-Anderson Construction Co.  
3716 Oneota Street  
Duluth, MN 55807

Re: Duluth Int'l Airport, Passenger Terminal Building (Civil Site Work  
FAA AIP 3-27-0024-48-10, RS&H Job No 213.1882.091

Subject: Work Scope, Lean-mix Concrete

Dear Mr. Cahoon:

This letter is in response to letter from Kraus Anderson Construction (KA) dated 10/01/10, referring to over excavations, lean-mix concrete, and backfill. Northland Constructors (NC) still believes any excavation or backfill of any material outside the 1' envelop, below slab grade to be a change condition. NC also believes the use of lean-mix concrete not to be in our scope of work. We present the following information to further our position.

### **Section 02220 – Building Earthwork**

*Part 2.1 Products*, No lean concrete materials are mentioned or specified in products list for building earthwork or NC's work scope

*Part 3.2 Clearing and Stripping*, this portion of work includes clearing and stripping "concrete and asphalt pavement layers," not including previous fill or to native soil.

*Part 3.4 Excavation, Part A*, Excavation work is defined as "Excavation consists of the removal and disposal of materials encountered when establishing required grade elevations for the site including footings, utilities, and all other items indicated in the drawings and specifications," no mention of geotechnical report for limits of grades.

*Part 3.4 Excavation, Part E 1*, "When excavation has reached required subgrade elevation," this reference is to a horizontal control required for footing elevations, makes no reference to soil conditions or recommendations of geotechnical report as you have stated was the intent.

*Part 3.4 Excavation, Part E 4*, "Removal of unsuitable material in excess of one foot in depth and its replacement as directed will be paid on the basis of contract conditions relative to change in work." This does not reference the geotechnical report or recommendations, simply stating that anything beyond the one foot depth shall be a change for the definition of this work scope. This provides a basis for bidders to quantify excavation and backfill quantities.

*Part 3.4 Excavation, Part J 3*, "Concrete is specified in Division 3" Division 3 is not listed as part of our work scope for bid item 113, Terminal Building Work.

### **Geotechnical Exploration**

The geotechnical "report" or exploration was available to bidders at time of bid. The specification classifies and defines the limits of excavation. The geotechnical report only advises and states recommendations to the design group for the design the building. The front of the geotechnical report states the following "this report is not intended to provide sufficient information to accurately determine quantities and location of particular material." NC did not base our bid quantities off the geotechnical report, because it advises us not to do so, and further, the specification has already defined the limits of excavation at one foot below the slab.

Also, in the plans there are details that refer to the geotechnical report for the definition of engineered fill. Engineered fill is defined; "Engineered fill should be a non-organic, granular material void of frozen soil, boulders, and debris." "Engineered fill should be placed in thin loose lifts compacted to at least 95% of the maximum Modified Proctor dry density (ASTM D1557)." If areas of fill on-site meet the compaction requirements, according to the geotechnical, it can be used under floor slab areas up to the 6" cushion layer, so there will be no need to excavate to native soils under the floor slab because it meets the geotechnical requirements for "engineered fill."

There were no conversations prior to bid or award regarding soils corrections, additional excavation, or lean mix-concrete, between KA and/or the design team and NC. Our bid is based on what is specifically written in the plans and specifications. NC still believes excavation beyond the one foot envelop is a change condition and will need written directive to proceed beyond our original scope of work. We also firmly believe that the lean-mix concrete is not specified or addressed in our work scope. NC will focus our efforts in other areas of the project until we receive further direction on how to proceed.

Please contact me directly should you require additional information,

Sincerely,



Nathaniel Fox

Project Manager

Northland Constructors of Duluth, LLC

# Northland Constructors of Duluth, LLC

September 30<sup>th</sup>, 2010

Serial Letter 4465.014

Mr. Brett Cahoon  
Kraus-Anderson Construction Co.  
3716 Oneota Street  
Duluth, MN 55807

Re: Duluth Int'l Airport, Passenger Terminal Building (Civil Site Work  
FAA AIP 3-27-0024-48-10, RS&H Job No 213.1882.091

Subject: Work Scope, Lean-mix Concrete

Dear Mr. Cahoon:

It has come to our attention that there will be some over excavation required at the direction of the geotechnical engineer, to reach "native" soils for the footing excavation. Northland Constructors (NC) is under contract for Work Scope 2.10 – Civil and Site Electrical work. In this work scope, division R, Building Earthwork is part of our contract and is described in specification section 02220. In that specification, 3.4 part E, line 4 "Additional Excavation" is described as any removal of unsuitable beyond one foot in depth will be paid as a change to original contract work. Any excavation beyond this one foot envelop should be paid as an extra.

Further in section 02220, 3.5, line 1, it describes the need for building footing to be placed on "undisturbed native soils or lean-mix concrete over undisturbed native soils," the mere mention of lean-mix concrete in this description does not place the responsibility of lean-mix concrete in our scope of work. This section also refers to the slab and footing in the description, but clearly those items are not in our work scope either. Concrete scope of work is described in Work Scope 3.10 Structural Concrete, Sections 03100-03300, concrete formwork, concrete reinforcement, and cast in-place concrete. Although there is no mention of lean-mix concrete in this work scope, clearly this work scope refers to the placement of structural concrete for the building. The omission of lean-mix concrete in the scope of work does not place the responsibility in NC's scope of work. Structural concrete is not in our work scope and NC does not plan on placing this, unless it is a change condition to our contract.

I would also point out that there is a conflict between the plans, specifications, and geotechnical report, in regard to the use of lean-mix concrete. In the plans and section 02220 it shows lean-mix concrete on undisturbed soil, but in the recommendations of the geotechnical report under building foundation support, it states that footings shall be placed on native soil or engineered fill placed directly over native soils, with no mention of lean-mix concrete.

Whatever the decision is regarding use of lean-mix concrete or engineered fill, NC believes that the contract documents clearly state excavation beyond the one foot envelop to be extra work, including the backfill. We also believe that whether the lean concrete is placed in the one foot envelop or below, is not in our scope of work and should have been addressed as a change in contract conditions.

Please contact me directly should you require additional information,

Sincerely,



Nathaniel Fox  
Project Manager  
Northland Constructors of Duluth, LLC